

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

In re:	)	CASE NO: 11-51708
Rosemary Jones	)	Chapter 13
	)	
Debtor(s).	)	Judge Marilyn Shea-Stonum
	)	
Rosemary Jones	)	ADV. NO:
1999 Faye Rd.	)	<u>COMPLAINT TO DETERMINE</u>
Akron, OH 44306	)	<u>THAT CLAIM OF HUNTINGTON</u>
	)	<u>NATIONAL BANK, IF ANY, IS</u>
Plaintiff	)	<u>AN UNSECURED CLAIM</u>
	)	
v.	)	
Huntington National Bank	)	
Attn: Officer or General Counsel	)	
2361 Morse Rd.	)	
Columbus, OH 43229	)	
	)	
Defendant.	)	

Now comes the plaintiff, Rosemary Jones, by and through the undersigned counsel, for her complaint against Huntington National Bank, alleges as follows:

1. This is a core proceeding over which this Court has jurisdiction under 28 U.S.C. Sec. 157(b).
2. The plaintiff is the debtor in this chapter 7 bankruptcy case. The defendant, Huntington National Bank, claims or may claim to hold a secured claim against the debtor by virtue of an alleged mortgage dated October 5, 2009 between the plaintiff as

mortgagor and Huntington National Bank as mortgagee. This alleged mortgage is designated as reception number 55658258 in the records of the Summit County, Ohio Fiscal Officer, Recording Division and was filed for record on October 14, 2009. Upon information and belief, the plaintiff avers that she owes a present approximate balance of \$19,000.00 on the indebtedness allegedly secured by this mortgage.

3. The alleged mortgage owed by the plaintiff to the defendant is a second mortgage on the plaintiff's residential real estate located at 1999 Faye Road, Akron, OH 44306.

4. M & I Bank FSB holds the first mortgage encumbering the plaintiff's residential real estate. The plaintiff states that she owes a current approximate principal balance of \$97,000.00 on this first mortgage.

5. The value of the plaintiff's real estate, according to the appraisal of the Summit County, Ohio Fiscal Officer, a copy of which is attached hereto as Exhibit "A," is \$92,210.00.

6. Under the reasoning of *Lane v. Western Interstate Bancorp (In re Lane)*, 280 F.3d 663 (6th Cir. 2002), the plaintiff's obligation to the defendant is a wholly unsecured claim and, as such, is subject to lien stripping.

WHEREFORE, the plaintiff requests the entry of an order declaring that her obligation owed to the defendant, if any, is a wholly unsecured claim and should be allowed and paid as a general unsecured claim inside the debtor's chapter 13 plan. The plaintiff further is entitled to a judgment declaring that the above-referenced alleged mortgage owed by her to the defendant is null, void and without any legal effect

whatsoever.

/s/ Robert M. Whittington, Jr. 0007851  
Attorney for the Plaintiff  
159 S. Main St., Suite 1023  
Akron, OH 44308  
330 384 8484  
fax 330 384 8953  
robertwhittington0@gmail.com

Warranty Deed - No. 061 (Joint & Survivor Form)

FALLS LAW PRINT, NORTON, OHIO 44203

# Know all Men by these Presents

**That,** ESTHER C. DOBBINS, a widow and not remarried  
the Grantor  
who claim title by or through instrument, recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, County \_\_\_\_\_  
Recorder's Office, for the divers good causes and considerations thereunto moving, and especially for  
the sum of One and no/100 ----- Dollars (\$ 1.00 )  
received to her full satisfaction of  
JR.  
HENRY THOMAS JONES/and ROSEMARY KOLAR  
the Grantees,  
whose TAX MAILING ADDRESS will be First Financial Mortgage Corp,  
339 White Pond Drive, Akron, OH 44320.

**Give, Grant, Bargain, Sell and Convey** unto the said Grantees, their heirs and assigns,  
and to the survivor of them, his or her separate heirs and assigns, the following described premises,  
situated in the City of Akron, County of Summit and  
State of Ohio:

and known as being a part of Lot 6, Tract 4, formerly Springfield  
Township and described as follows: Beginning at a point on the  
center line of Hilbish Avenue where it is intersected by the North  
line extended Easterly of Lot 20, Peterboro Subdivision, as recorded  
in Plat Book 35, Pages 36 & 37, Summit County Records; Thence North  
4° 29' East 733.10 feet on said center line of Hilbish Ave.; Thence  
North 85° 49' West 409 feet to the place of beginning for the land  
herein described;

Thence North 4° 29' East 575 feet;

Thence North 85° 49' West 77 feet;

Thence South 4° 29' West 575 feet;

Thence South 85° 49' East 77 feet to the place of beginning and  
containing 1.016 acres of land. Also known as Lot 6 in the Gombar  
Heights Allotment, unrecorded.

Property also known as 1999 Faye Road, Akron, OH 44306.

P.M. # 67-24439

P.P. # 09-00186-02-004.000

Prior Deed recorded in Volume OR 4950, Page 459  
of Summit County Records.

18002



54061471  
Page: 1 of 2  
09/26/1997 03:10P

TRANSFERRED IN COMPLIANCE WITH  
SEC. 319.222 REV. CODE

22,500.00 FEE  
JAMES B. MCCARTHY  
SUMMIT COUNTY AUDITOR

SUMMIT COUNTY AUDITOR  
JAMES B. MCCARTHY

BUCKEYE RESERVE TITLE AGENCY

97 SEP 26 PM 2:54 ORDER NO. AK 6719

TRANSFERRED

be the same more or less, but subject to all legal highways.

**To Have and to Hold** the above granted and bargained premises, with the appurtenances thereunto belonging, unto the said Grantees, their heirs and assigns, and to the survivor of them, his or her separate heirs and assigns forever.

And the said Grantor, for herself and her heirs, executors and administrators, hereby covenant with the said Grantees, their heirs and assigns, that said Grantor is the true and lawful owner of said premises, and is well seized of the same in fee simple, and has good right and full power to bargain, sell and convey the same in the manner aforesaid, and that the same are free and clear from all encumbrances, EXCEPT all legal easements, restrictions, conditions of record and taxes and assessments prorated to date of transfer and EXCEPT for those restrictions which violate the Fair Housing Act of 1968 and further, that said Grantor will warrant and defend the same against all claims of all persons whatsoever, except as hereinbefore provided.

And for valuable consideration N/A

do hereby remise, release and forever quit-claim unto the said Grantees, their heirs and assigns, all right and expectancy of **Power** in the above described premises.

In Witness Whereof I have hereunto set my hand, the 22<sup>nd</sup> day of September, in the year of our Lord one thousand nine hundred and ninety-seven,

Signed and acknowledged in presence of

ISABEL WASSON

Isabel Wasson  
Mary M. Kenney  
Mary M. Kenney

Esther C. Dobbins  
Esther C. Dobbins



54061471  
Page: 2 of 2  
09/28/1997 03:10P

State of Ohio  
Trumbull  
Summit County,  
above named

Before me, a Notary Public  
ss. in and for said County and State, personally appeared the  
Esther C. Dobbins

who acknowledged that she did sign the foregoing instrument and that the same is her free act and deed.

In Testimony Whereof, I have hereunto set my hand and official seal, at Newton Falls, Ohio  
this 22<sup>nd</sup> day of September, A. D. 19 97.

This instrument prepared by

Robert M. Thomson  
Attorney at Law  
423 Key Bldg.  
Akron, OH 44308

Penny J. Beagle  
PENNY J. BEEGLE, Notary Public  
State of Ohio  
My Commission Expires June 5, 2001

**Warranty Deed**

ESTHER C. DOBBINS,  
a widow and not remarried

TO

HENRY THOMAS JONES  
and  
ROSEMARY KOLAR

Transferred 19

COUNTY AUDITOR

State of Ohio

County of ss

Received for Record on the

day of 19

at o'clock M.

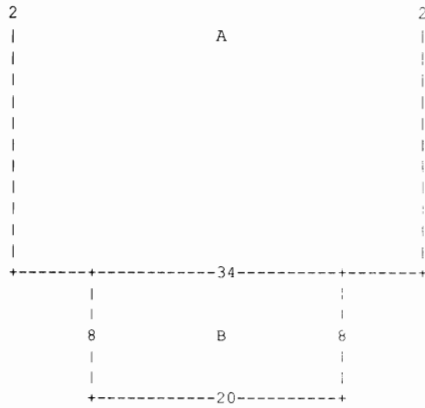
and Recorded 19 in

Deed Book Page

COUNTY RECORDER

Recorder's Fee \$



**ADDITIONS:****LINE B FIRST FLOOR OPEN FRAME PORCH****SECONDARY:**

CODE	YR BLT	SQ FT	MODS	CD	%GOOD	%COMP	FUN UNIT	FUN/ RS	ECO/ RS	RCNLD
WD1	1998	256		A	67		1			2430
G40	1999	1		G	88		1			12320

WD1 = WOOD DECK

G40 = GARAGE DETACHED FRAME/BLOCK

**SUMMARY ALL CARDS FOR PARCEL 6724439**

<b>LAND:</b>	19830	<b>BUILDING:</b>	72380	<b>TOTAL:</b>	92210
<b>ASSESSED LAND:</b>	6940	<b>ASSESSED BLDG:</b>	25330	<b>ASSESSED TOTAL:</b>	32270

**SALES INFORMATION FOR PARCEL 6724439**

DATE	DOC#	GRANTOR	AMT	SALE	DESC	PARCELS
06-JAN-06	369	JONES HENRY THOMAS JR & KOLAR				1
26-SEP-97	18002	DOBBINS ESTER C	72500	1	VALID	1

**PERMITS**

DATE	PERMIT #	AMOUNT	DESCRIPTION	O/C
08-JUN-07	HAIL DAMAGE		AUDITOR RE	C
02-JAN-07	REMOVE O-RIDE		AUDITOR RE	C
02-JAN-99	40460		POLE BARN	C
01-JAN-99	6724439		GARAGE ATT	C
06-MAY-98	40534	1400	EXTERIOR A	C

**NOTES**AA14CA12

07FC3286

HOUSE IS GETTING ADJUSTMENT IN OVERRIDE

FOR HAIL DAMAGE 2ND QTR 2007

[Print](#)[Pay by Phone](#)[Pay On-Line](#)**2010 SUMMARY INFORMATION FOR PARCEL 6724439**

<b>MAILING ADDRESS</b>	LUC	510
JONES ROSEMARY	CLASS	R
1999 FAYE RD	2.5%	Y
AKRON, OH 44306	HMSTD	N
<b>APPRAISED VALUE</b>	CAUV	N
92,210	FOREST	N
<b>TAXABLE VALUE</b>	STUB	67021727
32,270	CERT YEAR	2010
<b>BANK CODE</b>		
<b>TREAS CODE</b>		



CUR YR REFUND  
PRI YR REFUND  
MONEY IN ESCROW  
MONEY IN PRETAX

DELQ CONTRACT N  
BANKRUPTCY N  
FORECLOSURE N

### Beginning Tax Duplicate

Where Do My Tax Dollars Go? Voter Approved Levy Tax

	First Half Charges	Second Half Charges
Realestate	949.80	949.80
Special Assessment	124.56	124.56
Total	1074.36	1074.36
Due Date	FEB 18, 2011	JUL 15, 2011

### Total Tax Amount Due Reflects Payment & Adjustment To Date

	DELQ	1st HALF	2nd HALF
TOTAL REAL ESTATE AND SPECIAL CHARGES	2467.39	1074.36	1074.36
P & I & ADJ	2.98	107.44	0.00
PAYMENTS	-2243.08	0.00	0.00
AMOUNT DUE	227.29	1181.80	1074.36
YEARLY AMOUNT DUE:			2483.45

### 2010 TAX BILL DETAILS FOR PARCEL 6724439

DATE	SETTLE	PROJ. #	ACTION /CODE	1st HALF	2nd HALF
11-AUG-10	1	346967	PAY/SAC	-75.46	-75.46
11-AUG-10	1	345667	PAY/SAC	-40.35	-40.35
11-AUG-10	1	345667	PAY/SAF	-1.61	-1.61
11-AUG-10	1	346967	PAY/SAF	-3.02	-3.02
11-AUG-10	1	345667	PAY/SAP	-4.20	-8.81
11-AUG-10	1	346967	PAY/SAP	-7.85	-16.48
11-AUG-10	1		PAY/PEN	-94.77	0.00
11-AUG-10	1		PAY/CHG	-947.69	-922.40
06-DEC-10	1		DUP/INT	0.00	2.98
31-DEC-10	1		DUP/ORG	1584.78	1584.78
31-DEC-10	1		DUP/RED	-504.23	-504.23
31-DEC-10	1		DUP/ADJ	1080.55	1080.55
31-DEC-10	1		DUP/RLB	-108.06	0.00
31-DEC-10			DUP/RLB	0.00	-108.06
31-DEC-10			DUP/HRB	0.00	-22.69
31-DEC-10	1		DUP/HRB	-22.69	0.00
31-DEC-10	1	346967	DUP/SAC	75.46	75.46
31-DEC-10	1	345667	DUP/SAC	44.31	44.31
31-DEC-10	1	345667	DUP/SAF	1.77	1.77
31-DEC-10	1	346967	DUP/SAF	3.02	3.02
22-MAR-11		345667	ADJ/SAP	4.61	0.00
22-MAR-11		346967	ADJ/SAP	7.85	0.00
22-MAR-11			ADJ/PEN	94.98	0.00

DELQ REAL ESTATE & ASSESSMENT TAX:	2467.39
ADJUSTMENT:	0.00
DECEMBER INTEREST:	2.98
AUGUST INTEREST:	0.00
<b>TOTAL</b>	<b>2470.37</b>

REAL ESTATE CHARGES:	949.80	949.80
SPECIAL ASSESSMENT CHARGES:	124.56	124.56



ADJUSTMENT:	107.44	0.00
<b>TOTAL CHARGES:</b>	<b>1181.80</b>	<b>1074.36</b>
<b>PAYMENTS:</b>	<u>DATE</u>	<u>TYPE</u>
	11-AUG-10	NML
	-2243.08	
<b>TOTAL PAYMENTS:</b>	<b>-2243.08</b>	<b>0.00</b>
<b>FH/SH AMOUNT DUE:</b>	<b>1409.09</b>	<b>1074.36</b>

**SPECIAL ASSESSMENT:**

PROJECTNAME	END	1st HALF	2nd HALF
345667 M03 ST LTG/SWP-9999	9999	46.08	46.08
346967 M43 ST SEALING-2013	2013	78.48	78.48

**GENERAL INFORMATION**

JOHN A. DONOFRIO  
FISCAL OFFICER, COUNTY OF SUMMIT  
175 SOUTH MAIN ST.  
AKRON, OHIO 44308

**PLEASE DIRECT INQUIRIES CONCERNING PROPERTY VALUES TO**

(330)-643-2645	SPECIAL ASSESSMENTS
(330)-643-2710	APPRAISAL INFORMATION
(330)-643-2661	HOMESTEAD
(330)-643-2636	GENERAL REAL ESTATE

**PLEASE DIRECT INQUIRIES ABOUT YOUR TAX BILL INFORMATION TO**

(330)-643-2867	TREASURER DIVISION PRE-PAYMENT PROGRAM
(330)-643-2600	MONTHLY DELINQUENT CONTRACT PROGRAM
(330)-643-2587	TAX BILL MAILING INFORMATION
(330)-643-2589	PAYMENT INFORMATION

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